

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CARLEEN BARRETT

File No. 22-CV-4620

Plaintiff,

COMPLAINT

-against-

JURY TRIAL DEMANDED

GALO CABRERA-SOLORZANO and
CABRERA TRANSPORT, LLC,

Defendants.

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Plaintiff, by her attorney HALPERIN, HALPERIN & WEISKOPF, PLLC,
complaining of the defendants, GALO CABRERA-SOLORZANO and CABRERA
TRANSPORT, LLC, states and alleges as follows:

THE PARTIES

1. At all times hereinafter mentioned, plaintiff was and still is a resident of the City of New York, County of Kings and State of New York.
2. Upon information and belief, defendant GALO CABRERA-SOLORZANO was and still is a resident and citizen of the State of New Jersey.
3. Upon information and belief, at all times hereinafter mentioned, defendant CABRERA TRANSPORT, LLC was and still is a limited liability company organized and existing pursuant to the laws of the State of New Jersey, and having its office for the transaction of business in the City of Newark and State of New Jersey.
4. Upon information and belief, defendant CABRERA TRANSPORT, LLC consists of a single member, to wit: co-defendant GALO CABRERA-SOLORZANO who was and still is a resident and citizen of the State of New Jersey.

JURISDICTION & VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1332(a)(1), as a consequence of the fact that the matter in controversy exceeds

the sum or value of \$75,000.00, exclusive of interest and costs, and is between a citizen of the State of New York and a citizen or subject of a foreign State.

6. This Court has personal jurisdiction over the defendants herein because they have availed themselves of the privilege of conducting activities within the State of New York and this district; and have engaged in the activities giving rise to this lawsuit within the State of New York and this district.

7. Venue is appropriate in this Court pursuant to 28 U.S.C. Section 1391(a)(b) because plaintiff resides within this district; and a substantial part of the events or omissions giving rise to the claim occurred in this district.

**AS AND FOR A FIRST, SEPARATE & DISTINCT
CAUSE OF ACTION
COMMON LAW NEGLIGENCE/VIOLATION OF
NEW YORK STATE VEHICLE AND TRAFFIC LAW**

8. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 7, inclusive of this Complaint, as if same were fully set forth herein at length.

9. At all times hereinafter mentioned, plaintiff owned, operated, managed and controlled a certain motor vehicle consisting of a 2005 Acura Sedan bearing registration number GWU3177 of the State of New York.

10. Upon information and belief, at all times hereinafter mentioned, defendant CABRERA TRANSPORT, LLC was and still is the titled owner of a 2015 Kenworth Truck bearing registration number AX164P of the State of New Jersey.

11. Upon information and belief, at all times hereinafter mentioned, defendant GALO CABRERA-SOLORZANO was and still is the titled owner of a 2015 Kenworth Truck bearing registration number AX164P of the State of New Jersey.

12. Upon information and belief, at all times hereinafter mentioned, defendant CABRERA TRANSPORT, LLC was and still is the registered owner of a 2015 Kenworth

Truck bearing registration number AX164P of the State of New Jersey.

13. Upon information and belief, at all times hereinafter mentioned, defendant GALO CABRERA-SOLORZANO was and still is the registered owner of a 2015 Kenworth Truck bearing registration number AX164P of the State of New Jersey.

14. Upon information and belief, at all times hereinafter mentioned, defendant GALO CABRERA-SOLORZANO operated the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

15. Upon information and belief, at all times hereinafter mentioned, defendant CABRERA TRANSPORT, LLC managed the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

16. Upon information and belief, at all times hereinafter mentioned, defendant GALO CABRERA-SOLORZANO managed the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

17. Upon information and belief, at all times hereinafter mentioned, defendant CABRERA TRANSPORT, LLC maintained the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

18. Upon information and belief, at all times hereinafter mentioned, defendant GALO CABRERA-SOLORZANO maintained the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

19. Upon information and belief, at all times hereinafter mentioned, defendant CABRERA TRANSPORT, LLC controlled the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

20. Upon information and belief, at all times hereinafter mentioned, defendant GALO CABRERA-SOLORZANO controlled the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey.

21. At all times hereinafter mentioned, Lewis Avenue was and still is in the

vicinity of Vernon Blvd. and Myrtle Avenue in the City of New York, County of Kings and State of New York, and was and still is a public highway over which the public has the right to travel.

22. At the time of the occurrence herein and on or about April 18, 2022 at approximately 7:40 AM, plaintiff CARLEEN BARRETT was operating the aforesaid motor vehicle bearing registration number GWU3177 of the State of New York on Lewis Avenue in a northerly direction between Vernon Blvd. and Myrtle Avenue in the City of New York, County of Kings and State of New York

23. Upon information and belief, at the time of the occurrence herein and on or about April 18, 2022 at approximately 7:40 A.M., the aforementioned motor vehicle bearing registration number AX164P of the State of New Jersey owned by defendant CABRERA TRANSPORT, LLC and operated by defendant GALO CABRERA-SOLORZANO was also being operated on Lewis Avenue in a northerly direction in between Vernon Blvd. and Myrtle Avenue in the City of New York, County of Kings and State of New York.

24. Upon information and belief, on or about April 18, 2022 at approximately 7:40 A.M., the aforementioned motor vehicle bearing registration number AX164P of the State of New Jersey owned by defendant CABRERA TRANSPORT, LLC and operated by defendant GALO CABRERA-SOLORZANO came into violent contact and collision with the rear of the aforementioned motor vehicle bearing registration number GWU3177 of the State of New York operated, managed and controlled by the plaintiff.

25. The aforesaid occurrence and the resultant injuries sustained by the plaintiff were caused solely by and through the negligence, carelessness, recklessness and wanton disregard on the part of defendants CABRERA TRANSPORT, LLC, GALO CABRERA-SOLORZANO and each of them, as follows:

(a) In the ownership, management, operation, maintenance and control of the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey;

(b) In operating the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey in a careless and imprudent manner under the conditions then and there existing;

(c) In operating the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey at an excessive and dangerous rate of speed or at such rate of speed that care and caution would permit under the circumstances then and there existing;

(d) In failing to timely stop the aforesaid motor vehicle bearing license plate number AX164P of the State of New Jersey, thereby causing defendants' motor vehicle to collide with the rear of plaintiff's motor vehicle;

(e) In failing to equip the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey with appropriate safety and emergency equipment in compliance with law;

(f) In failing to equip the aforesaid motor vehicle bearing registration number AX164P with proper brakes; in failing to make proper application of the brakes; in failing to apply the brakes in time;

(g) In failing to look;

(h) In failing to see;

(i) In failing to stop;

(j) In failing to yield;

(k) In failing to observe the roadway;

(l) In failing to maintain the aforesaid motor vehicle bearing registration number AX164P of the State of New Jersey under due and proper control;

(m) In failing to sound horn or give any signal, notice or warning;

(n) In coming into violent contact with and striking plaintiff's motor vehicle;

(o) In failing to comply with the statutes, laws and ordinances made and provided for vehicular traffic on the roadways of the State of New York;

(p) In failing to comply with the statutes, laws and ordinances made and provided for vehicular traffic on the roadways of the City of New York;

(q) In failing to obey the traffic signals provided in the vicinity of the aforementioned roadway;

(r) In failing to obey the signs provided in the vicinity of the aforementioned roadway;

(s) In failing to comply with the statutes, laws and ordinances made and provided for motor vehicles;

(t) In failing to avoid a collision although defendants had a full opportunity to avoid same; and

(u) In otherwise being careless, negligent and reckless in the happening of the aforesaid occurrence.

26. Plaintiff was in no way negligent in the happening of the aforesaid occurrence.

27. By reason of the negligence of the defendants CABRERA TRANSPORT, LLC, GALO CABRERA-SOLORZANO and each of them as aforesaid, plaintiff was caused to sustain serious and severe personal injuries which are permanent in nature; has been and will be, caused great pain and suffering; has been and will be, caused to be rendered sick, sore, lame and disabled; has been and will be, caused to be incapacitated from her usual duties, activities and employment and may in the future continue to be so incapacitated; has been and will be caused to expend large sums of money in an effort to cure herself of said injuries; was caused to be incapacitated from her usual duties and activities and may in the future continue to be so incapacitated.

28. By reason of the foregoing, plaintiff is entitled to recover for non-

economic loss and for all economic losses sustained.

29. This cause of action falls within one or more of the exceptions set forth in Section 5102 of The Insurance Law of The State of New York.

30. This cause of action falls within one or more of the exceptions set forth in CPLR 1602.

31. By reason of the foregoing, plaintiff has been damaged in an amount which exceeds the monetary jurisdictional limits of any and all lower courts which would otherwise have jurisdiction herein, in an amount to be determined at the trial of this action.

**AS AND FOR A SECOND, SEPARATE & DISTINCT
CAUSE OF ACTION
COMMON LAW NEGLIGENCE/NEGLIGENT ENTRUSTMENT**

32. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs 1 through 31, inclusive of this Complaint, as if same were fully set forth herein at length.

33. At all times hereinafter mentioned, it was the duty of defendant CABRERA TRANSPORT, LLC to entrust the use of the aforesaid motor vehicle bearing license plate number AX164P of the State of New Jersey to a suitable, licensed, competent, qualified, experienced, trained, diligent and adequate person.

34. At all times hereinafter mentioned, it was the duty of defendant CABRERA TRANSPORT, LLC to ensure that the aforesaid motor vehicle bearing license plate number AX164P of the State of New Jersey was entrusted, for use and operation as a vehicle, to a person, who was fit, suitable, licensed, properly trained and instructed.

35. At all times hereinafter mentioned, it was the duty of defendant CABRERA TRANSPORT, LLC to ensure that the aforesaid motor vehicle bearing license plate number AX164P of the State of New Jersey was not entrusted, for use and operation as a vehicle, to a person who was unlicensed, constituted a potential menace, hazard or danger to the public or otherwise, those with unsuitable propensities or with emotion, physical, psychological and/or

physiological traits or characteristics or unsuitable or unstable or contraindicated to safely operate such vehicle.

36 By reason of the negligence of defendant CABRERA TRANSPORT, LLC in entrusting the operation of the aforesaid motor vehicle bearing license plate number AX164P of the State of New Jersey to defendant CABRERA SOLORZANO-GALO, plaintiff was caused to sustain serious and severe personal injuries which are permanent in nature; has been and will be, caused great pain and suffering; has been and will be, caused to be rendered sick, sore, lame and disabled; has been and will be, caused to be incapacitated from her usual duties, activities and employment and may in the future continue to be so incapacitated; and has been and will be caused to expend large sums of money in an effort to cure herself of said injuries.

37 By reason of the foregoing, plaintiff has sustained a serious personal injury greater than that as defined in Subdivision (d) of Section 5102 of The Insurance Law of The State of New York and has sustained a serious economic loss greater than that as defined in Subdivision (a) of Section 5102 of The Insurance Law of The State of New York.

38 By reason of the foregoing, plaintiff is entitled to recover for non-economic loss and for all economic losses sustained.

39 This cause of action falls within one or more of the exceptions set forth in CPLR 1602.

40 By reason of the foregoing, plaintiff has been damaged in an amount which exceeds the monetary jurisdictional limits of any and all lower courts which would otherwise have jurisdiction herein, in an amount to be determined at the trial of this action.

JURY DEMAND

41. Plaintiff hereby demands a trial by jury.

RELIEF

WHEREFORE, plaintiff CARLEEN BARRETT demands judgment against defendants CABRERA TRANSPORT, LLC, GALO CABRERA-SOLORZANO and each of

them, as follows:

1. As to the First Cause of Action, an indeterminate sum of not less than TWO MILLION (\$2,000,000.00) DOLLARS;
2. As to the Second Cause of Action, an indeterminate sum of not less than TWO MILLION (\$2,000,000.00) DOLLARS;
3. As to all causes of action, the costs and disbursements of this action; a trial by jury of all issues set forth in this complaint; and such other and further relief as this Court may deem just and proper under the circumstances.

Dated: New York, New York
August 4, 2022

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